

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

TED MARCUM, : Case No. 3:17-cv-00437
Plaintiff, : District Judge Walter H. Rice
vs. : Magistrate Judge Sharon L. Ovington
SHERIFF DAVE DUCHAK, et al., :
Defendants. :
:

ORDER

Defendant Sheriff Dave Duchak has filed a Motion to Strike (Doc. #112) seeking an Order striking *pro se* Plaintiff Ted Marcum's Response to Discovery (Doc. #110). Defendant contends that an Order striking Plaintiff's Response is warranted under Fed. R. Civ. P. 5(d)(1)(A).

Rule 5(d)(1)(A) provides that initial disclosure (under Rule 26(a)(1) or (2)) and certain discovery requests and responses "must not be filed until they are used in the proceeding or the court orders filing" This includes, in part, answers to interrogatories, responses to requests for documents, and responses to requests for admission. *Id.*

Plaintiff violated Rule 5(d)(1)(A) by filing many documents in response to Defendant's discovery requests. Rule 5(d)(1)(A), however, does not mandate striking improperly filed discovery responses. Plaintiff's discovery materials, moreover, work no prejudice upon Defendant's ability to litigate his case especially because the presence of

Plaintiff's responses in the record do not relieve him of his obligations to answer Defendant's interrogatories and respond to Defendant's requests for production of documents as required by Fed. R. Civ. P. 33(b) and 34(b), respectfully.

Accordingly, Defendant Sheriff Dave Duchak's Motion to Strike (Doc. #112) is denied.

June 10, 2020

s/Sharon L. Ovington

Sharon L. Ovington
United States Magistrate Judge